

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN AUBYN A. CURTISS**, on February 8, 2001
at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Aubyn A. Curtiss, Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Douglas Mood, Vice Chairman (R)
Rep. Dee Brown (R)
Rep. Roy Brown (R)
Rep. Gary Forrester (D)
Rep. Carol C. Juneau (D)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Trudi Schmidt (D)
Rep. Bob Story (R)

Members Excused: Rep. Alan Olson (R)

Members Absent: None.

Staff Present: Stacie Leitgeb, Committee Secretary
Stephen Maly, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJR 18, 2/6/01, HJR 14, 2/6/01
HJR 13, 2/6/01, HB 467, 2/6/01
Executive Action: HJR 13, HJR 14, HB 364

HEARING ON HJR 18

Sponsor: REP. DAVE LEWIS, HD 55, HELENA

Proponents: Clint Blackwood, Lewis & Clark Bicentennial
Planning Commission

Opponents: None

Opening Statement by Sponsor:

REP. DAVE LEWIS, HD 55, HELENA said HJR 18 was a joint resolution of the Senate and House recognizing the 200th anniversary of the Lewis and Clark Expedition as a very important part of Montana history.

Proponents' Testimony:

Clint Blackwood, Director of State Lewis & Clark Bicentennial Commission supported the resolution. He said there were no additional funds in Montana to significantly fund the bicentennial observance in the state and the Commission has worked to encourage Congress and the President's office to raise this to a higher level. Presently, there was a House and Senate Lewis and Clark Caucus, and the Montana delegation were members of those caucuses. There were more states showing interest in the bicentennial and this may have the effect of less money being available to states that have more of the trail. There are 2,000 miles of the trail system in Montana. The competition is going to increase with demonstrated need and interest statewide for the bicentennial.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. DEE BROWN, HD 83, HUNGRY HORSE asked for information on how many people were expected to visit Montana from the Travel Montana perspective. **Clint Blackwood** said research on visitation indicated 8-9 million nonresidents. The bicentennial goes from January 2003 through 2006. The number of visitors differs, but it will be significant.

REP. BROWN asked how they reply to those who say the same thing was supposed to happen during the Centennial cattle drive and didn't. **Clint Blackwood** said they have been working hard to make this a community driven bicentennial event. They have encouraged development of 14 bicentennial commissions around the state. At the local level, they are endorsed by county commissioners, so they have really encouraged a grass roots support. They have identified numerous projects they would like to have in place for the bicentennial. They have also worked with Indian nations across the state, and their interest varies, but they would like to be involved on their own terms. They have also worked with different state and federal agencies through a Montana Tourism

and Recreation Initiative. There will be activities statewide; it will be bigger than the cattle drive. It will be more than a one day or one week kind of event. He said there has already been increased interest and visitation now, and thinks this will continue beyond 2006.

REP. LEWIS asked if state money was already being spent on the promotion of the Lewis and Clark Bicentennial. **Clint Blackwood** said Travel Montana was the marketing arm for the State, and yes they were spending money in that area. They were developing a marketing strategy that would relate to the Bicentennial.

REP. MOOD asked if 8-9 million visitors would be a major impact on the state and if they had considered writing an environmental impact statement. **Clint Blackwood** said it would be a major impact and stated the commission had not been addressed. He said that some of the state and federal agencies were looking at projects along the trail dealing with environmental impact studies.

Closing by Sponsor:

REP. LEWIS wondered about another bill dealing with this same issue.

HEARING ON HJ 14

VICE CHAIRMAN DELL took the chair temporarily so **CHAIRMAN CURTISS** could present her bill.

Sponsor: **REP. AUBYN CURTISS, HD 81, LINCOLN COUNTY**

Proponents: **SEN. BEA MCCARTHY, SD 29, ANACONDA**
SEN. BILL TASH, SD 17, SOUTHWESTERN MONTANA
Mike Collins, Montana Resource Providers Coalition

Opponents: **None**

Opening Statement by Sponsor:

REP. AUBYN CURTISS, HD 81, LINCOLN COUNTY said this resolution had come about because of the efforts of a group of legislators to participate in decision making about the Columbia River and its governance. She said that in addition to water issues, it has spilled over now to energy issues as well. The Council on River Governance has been working on this since 1998 to make sure that states had some degree of participation in governing decisions. Legislators became interested after learning about

several ongoing processes whereby Governors, Indian tribes and 13 U. S. governmental regulatory agencies were conversing. The initial process was called The Three Sovereigns. She stated that as any one knows, there certainly are more than three sovereigns involved when you take into account the Indian tribes, the four states, and the 13 governmental agencies. They finally changed that name to the Columbia River Forum, probably for credibility purposes. We still have the same participants, just a different name. Within the process is the multi species framework, again with the same participants. Legislators of the four states believe that because they are elected to represent the interests of all the stakeholders in all their individual states, that they should have a say in the decision making process. **REP. CURTISS** said this resolution is the result of ongoing efforts since 1949 and urged a DO PASS.

Proponents' Testimony:

SEN. BEA MCCARTHY, SD 29, ANACONDA handed out a newspaper article entitled "Cheap BPA Power Unites Governors" from The Oregonian, **EXHIBIT (feh32a01)**, and "Legislative Council on River Governance" **EXHIBIT (feh32a02)** which contains a mission statement and common issues. She said she and **REP. CURTISS, SEN. BECK** and **REP. GALLUS** are members of the River Governance Committee. They and the Governors of the other states met in Oregon last week. She said this had been an ongoing process and they continue to need the cooperation of the other three states. They are looking at the energy crisis and hope that by working together with Idaho, Washington and Oregon they may come up with some solutions that will help Montana work its way through this situation. She urged support for HJR 14.

SEN. BILL TASH, SD 17, SOUTHWESTERN MONTANA said HJR 14 was the result of former Governor Racicot appointing legislators to represent the concerns. He said he was involved in the first meeting which was in Boise, and all the people there were interested in representing their constituents whether it was with water, hydro electric generation or all the issues associated with the Columbia River Basin drainage. At that time, **SEN. SWYSGOOD** wasted no time in saying he was there to protect our water rights in Montana and everyone else could have it when we are done with it. That relaxed the tensions, and everyone else felt pretty much the same way. This was the 9th meeting over a three year period and we now have a consensus that has resulted in HJR 14. It is important that we pass along the message of consensus among the four state participants and send a message to Congress. A resolution has the advantage, the purpose to announce what our concerns are. We can't afford to be voices in

the dark, we need to enjoin our congressional delegates, our four state participants in the council, and the Governors of the four states. The presence of Governor Martz at this meeting helped to encourage other governors to be there and recognize the concerns we have tried to promote. Now, with HJR 14 we can send that message on to Congress.

Mike Collins, member of the Montana Resource Providers Coalition said they endorse this resolution too. He asked the committee to note the first and third WHEREAS clauses as they are particularly important. He showed a four part, 31 pound feasibility study, a draft (EIS) Environmental Impact Statement for the Coeur d'Alene Basin, that demonstrates what happens when they are not involved in the process. He said they support our elected officials to be represented on this much larger project.

Opponents' Testimony: None

Questions from Committee Members and Responses:

VICE CHAIRMAN DELL asked if Bonneville Power had supported this process. **REP. CURTISS** said Bonneville was an agency of the federal government. She added they divert energy allocated for Montana entities.

Closing by Sponsor:

REP. CURTISS said this resolution was presented to approximately 100 members of the River Governance Council at their meeting on January 6, 2001, accepted and unanimously endorsed by all four states. It was presented to the Governors at their recent meeting in Portland. It is a step toward working more closely with the Governors and giving legislators more ability to be there when the decisions are being made. She said the EIS document for the Columbia River Basin was even larger than the one Mike Collins had. No record of decision was reached on that document relating to 142 million acres. There will be as many as 42 counties in the Columbia River Basin that will no longer be economically sustainable. That should send a message to all of us that we have to be alert. She urged a do pass.

HEARING ON HJR 13

Sponsor: **REP. MERLIN WOLERY, HD 90, RUDYARD**

Proponents: **Pam Langley, Montana Agribusiness Association**
Mark Peterson, Havre Farmer

Sarah Carlson, MT Assoc. of Conservation Districts
Ralph Peck, Department of Agriculture

Opponents: None

{Tape 1; Side B}

Opening Statement by Sponsor:

REPRESENTATIVE MERLIN WOLERY, HD 90, RUDYARD said HJR 13 was brought on behalf of Montana's largest industry, agriculture. The producers were forced to purchase chemicals for their crops at prices that are 15% to 25% higher than our Canadian neighbors. HJR 13 will urge the powers in Washington DC to act quickly. Montana farmers could each save several thousand dollars if the pesticides they buy could be purchased at the same price that our Canadian neighbors pay. The manufacturers of these products could utilize the (EPA) Environmental Protection Agency, which would allow these products to be labeled in a similar manner in the United States. HJR 13 asks the EPA and Congress to support the efforts of the North American Free Trade Agreement (NAFTA) Technical Working Group on Pesticides to harmonize pesticide regulations between Canada and the United States. Urged support of HJR 13.

Proponents' Testimony:

Pam Langley, Montana Agribusiness Association said they supported HJR 13 and they represent crop input products from the manufacturer level to the applicator level in Montana. She said it costs \$70 million to \$80 million to put a new product on the market, takes 7-10 years, and has to go through 120 separate tests. Canada has its own process. If these two processes could be harmonized so that registrations could occur at the same time, it would benefit our growers as well as the folks she represents. Dealers in Montana are frustrated they cannot provide their customers the same products their Canadian counterparts have, but the required testing is different. We are victims of higher pricing out here because they are registering in Canada first. However because they have fewer acres in the corn belt area, prices are higher in Canada. Cost is an issue, availability of products especially for minor crops is another issue. She said she hoped this is not just a "feel good" resolution. EPA needs to push this process along. She said if they have the Montana legislature behind them, it will help a lot in the process.

Mark Peterson, Havre Farmer said this is not a new problem, they started asking for help over four years ago. He said he grows a

lot of alternative crops, peas, lentils, chickpeas, canola, etc. and in Canada these crops have chemicals that are safe up there. Yet these same chemical companies have not labeled them down here, because there isn't as much acreage here. They need some common ground to look at these chemicals that have already had research done on them so American farmers can play on an even field. He urged support.

Sarah Carlson, Montana Association of Conservation Districts said they support HJR 13. It is just another step in trying to get parity for our Montana agriculture community. The national aspect is very important. The National Association of Conservation Districts just met. They passed a national resolution on this same issue and are going to be contacting Congress. If we keep at it, we may be able to do something about this issue.

Ralph Peck, Montana Department of Agriculture said this is an important issue as it just makes sense that we don't duplicate research across the border between us and Canada. We should be able to find a way to harmonize the requirements for registration of agricultural chemicals and the differences between our borders. The National Association of Departments of Agriculture unanimously supported harmonization of agricultural chemicals and pesticides. U. S. Trade Accord Working Group has this as a primary goal. We need to set common standards, then we can go about our work and be assured that producers on both sides of the border are treated fairly and equally, and that we do it at a low cost as possible.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. MOOD said he saw what they were trying to accomplish but is concerned that in trying to make it easier for the U. S., we will have to make it harder for the Canadians to approval. **Ralph Peck** said that is a concern that has been discussed in their trade accord negotiations. Both sides concur that they believe it is possible to get the scientists to agree what the standards are. One of the big issues is for U. S. EPA and their counterpart in Canada to accept each study. Even though a scientist does it on one side of the border, they seem to be inclined that because it wasn't a U. S. study, or it wasn't a Canadian study that they should duplicate the study. That has been discussed, but if we can have harmonization, we should be able to overcome that. **REP. MOOD** said he was concerned about the difference in the amount of time required to certify a chemical or the process. He asked if

it is due to more stringent standards in the U. S. than there are in Canada. Is there a difference? **Ralph Peck** said there is a difference, but if they can get the standards set the same, and get the studies and the data accepted in the U. S. that will help the process a lot. Each country can still set the requirements; we aren't asking Canada to bow to the U. S. or vice versa. He would at least like the data harmonized, so one scientist will agree that his counterpart has done a good study in another country.

REP. MOOD asked if it was more likely most stringent requirements would be adopted, rather than the relaxed requirements. **Ralph Peck** said the EPA has a very stringent process that they review in the U.S. and he is not as familiar with the Canadian requirements for registration of their products. Both countries do commerce back and forth, so they are concerned that they have equal protection for every citizen, and think there should be standardization of that protection. Reality is difficult to judge unless you are a scientist. The discussion should take place at a scientific level so they can resolve those differences and bring them back to the policymakers of both countries.

REP. STORY asked about chemicals that were identical, but have price differentials. He wondered about being told the difference in the price of Canadian Roundup and U. S. Roundup is just the cost of registering the chemical. **Ralph Peck** said one of the reasons this had been presented to him was due to the cost being higher in the U. S. He responded by stated the need for a marketing strategy with these companies to include the total market in the North American continent. It is a market strategy of how they allocate those costs in order to get the return they need.

CHAIRMAN CURTISS asked if there had been any consideration toward including Mexico in this. **Ralph Peck** said there was a counterpart group of the National Departments of Agriculture that also works on U. S./Mexico issues and they have this same issue. The states that are along the U. S./Mexican border are dealing with their counterparts in the Mexican states. He believes if the states and provinces can build an accord between us; Mexico, Canada and the U. S., that we can continue to put pressure on our federal governments to respond to these issues.

Closing by Sponsor:

REP. WOLERY said the testimonies had been heard dealing with harmonization of pesticides between Canada and the United States would not only help Montana farmers, but also the many people who

own businesses that sell these products. He would like to make NAFTA more inclusive to benefit Montana more. He urged support.

EXECUTIVE ACTION ON HJR 13

Motion: REP. DELL moved HJR 13 DO PASS.

Discussion:

REP. MOOD said this would make sense, we are right across the border and there was no fence. He urged support.

Vote: Motion passed unanimously.

EXECUTIVE ACTION ON HJR 14

Motion: REP. DELL moved HJR 14 DO PASS.

Discussion:

REP. MOOD asked about the goal, was it to give more weight to the interests of the northwest states on how the water and electric generation is being handled. There was a letter from two California Senators to the Director of the (BPA) Bonneville Power Administration suggesting they should stop selling electricity to the northwest users and sell it to California where it is really needed. They seem to feel we don't need it. He said he found it extremely interesting that Bonneville Power Administration is questioning his company's contract with them and after five years they feel it is ambiguous and they really don't have a contract. They are going to raise the cost of electricity from two to four times. They are doing the same thing in Eureka. There are some ugly political games being played with BPA and anything we can do to protect our own interests should be aggressively pursued.

CHAIRMAN CURTISS said one of the reasons the people on the River Governance Committee feel so strongly about this issue. She commented about the Boxer/Feinstein letter and said it would take an act of Congress to change the mandate of Bonneville Power Administration. When federal dams were authorized, Bonneville had a mandate to supply energy to entities in the Pacific Northwest at cost based rates and they had preferential customers like the aluminum companies, and the electric cooperatives. One of the reasons for the resolution is that we want to maintain and retain that cost based rate element. There is a coalition between some people in California and in the northeast states to

try to take this and base it on market based rates, rather than cost based rates. They would like to change the whole system. Bonneville is reeling from recent orders, one of which is that there will be a regional transmission organization set up by a certain date. They are unable to react in any manner because they have this particular mandate. There are a lot of different issues coming into play. There was a suggestion that the Pacific Northwestern states purchase Bonneville Power Administration. There could be congressional action that would change the whole picture and they could be victimized as much as we are.

Legislative Staffer Stephen Maly agreed with the chairman and the accurate description of the council's work. The BPA itself has participated with the River Governance Council, they are not offended by this and view this as a potentially advantageous organization that will help the northwest. They view themselves as a northwest organization more than a federal organization, and they have endorsed this effort to date as a means of retaining some kind of self determination in the northwestern states.

REP. DELL agreed with HJR 14. He was on an interim committee and they went out to meet the Bonneville people. They went to great lengths to tell us that we need to be aware of California and the continuous pressure they are putting on Bonneville to renegotiate and prioritize the state of California with regard to their electrical needs. They said that without a coordinated northwest region approach to this, that California will approach this as a divide and conquer issue. They will see it as their issue, not ours.

CHAIRMAN CURTISS said the tremendous expense of building the federal hydro projects initially is a cost that has been in the process of being repaid by Bonneville. The price of returning that initial investment has been negotiated into their rates. In the year 2020 the federal government will have been repaid for all the capital that went into the building of the dams. What you see here is a facility with generation capability and almost zero operating expenses, so it is an attractive proposition for any entity that would like to go in and buy it out or take it away by congressional action for the advantage of someone else.

REP. DEE BROWN said there was no doubt the committee would support this resolution. She added they were the source of that water.

Motion/Vote: **REP. BROWN** moved **HJR 14 DO PASS. Motion carried unanimously.**

HEARING ON HB 467

Sponsor: REP. DAVID WANZENRIED, HD 68, MISSOULA

Proponents: Greg Groepper, Energy Share of Montana
Vern Burtleson, MT Senior Citizens Association
Betty Whiting, MT Association of Churches
Patty Keebler, MT State AFL-CIO
Sharon Hoff-Brodoway, MT Catholic Conference

Opponents: None

Informational Witnesses: Bob Anderson, Public Service
Commission

Opening Statement by Sponsor:

REP. DAVID WANZENRIED, HD 68, MISSOULA said universal system benefits were due to sunset June 30, 2003. This bill proposes to repeal the sunset and make Universal system benefits for electricity go on into the indefinite future, in the same way that we have no sunset on natural gas. He said they would simply parallel something that was already in effect that took place along with deregulation in 1997. He handed out a memo dated May 6, 1996 entitled "Low-Income Household Profiles", **EXHIBIT (feh32a03)**, that details exactly what low income and poverty is. The point of this memo is that at that time there were 78,000 households at poverty level or below. Providing a sunset to continue addressing this issue is not going to change that, and it is not responsible for us to sunset this with a large number of persons at poverty level. He handed out Amendment HB046701, **EXHIBIT (feh32a04)**, and explained it. He said he would allow the chairman to close for him as he had two large bills being heard in another room.

Proponents' Testimony:

Greg Groepper, Executive Director of Energy Share of Montana said they worked with REP. WANZENREID to put this bill together, and were doing it before other legislation came along. The bill attempts to adjust the low income portion of the rate for Universal system benefits (USB) rate. The rates are set at 1995 revenues and they want to bring it current because rates are going to go up and may triple. If this isn't done, there won't be any resources available to deal with the price increase. He handed out an excerpt from HB 377, passed last session, **EXHIBIT (feh32a05)**. He said it is important to take price

transmission and distribution and look at that as the revenue and say that whatever the revenues were including sales last year, that is what we want to set the rate at. If electricity costs go up, there would be more USB available; if cost goes down they won't need as much. This would make the low income portion of electric USB work the same way that natural gas does. USB helps low income people avoid cutoff and get back on their feet. If there is no USB help, they can't pay their bill, they get shut off, and that costs more money. Then their bill and the costs of getting shut off come into play and we end up paying more for it. There is nothing in HB 10 this session for low income bill support. There are 78,000 families at or below poverty, 12,800 are seniors. Federal money helped 14,000 families last year, and Energy Share helped 1600 families. Between the two, 16,000 of the 78,000 families were helped last year, and it would take a lot more to meet the needs that are out there. Urged support of HB 467. This is the only bill coming from the House side that attempts to index that Universal systems benefit to a current price.

Verner Bertleson, Montana Senior Citizens Association said seniors were trying to get along on their social security and are being faced with serious problems in the area of supplying electricity for their homes. He urged support.

Betty Whiting, Montana Association of Churches urged the committee to pass HB 467. She said they support policies that are consistent with the principle that all people have a right to secure the basic necessities of life. As a community we are obligated to protect those who can least afford erratic energy prices. Without a guarantee that the energy situation will be over by 2003, a consistent source of funding for low income energy and weatherization assistance must be continued. HB 467 gives security that heat and light will continue in the homes of those least able to adjust to the change in the energy supply.

Gene Lewwer, Executive Director Rocky Mountain Development Council said they do eligibility for the low income energy assistance payments program. They administer the Energy Share program on a local level and provide weatherization services that insulate people's homes. They also serve as an area agency on aging and provide home delivered meals, health services, and transportation services to low income senior citizens in a six county area. He said the current law has worked well and with the price increases that are expected, we need to look forward to how we will deal with them. He urged support of HB 467.

{Tape : 2; Side : A}

Patty Keebler, MT State AFL-CIO said they have long standing policies, some 30 years old, that call for a mix of power generation, alternative and public power conservation and efficiency efforts in order to meet our state's energy needs. Universal system benefits program has been a useful tool in assisting working families in utility costs and weatherization. They support the continuation of this program for low income households and increased funding for the future. Please support HB 467 for Montana's working families.

Sharon Hoff-Brodowy, Montana Catholic Conference said this bill would address a very vulnerable population. She urged support.

Opponents' Testimony: None

Informational Witnesses: _____

Bob Anderson, Public Service Commission said while the Commission neither supports nor opposes this bill, they feel that the intention of the bill is very good. It is clear that 2002 will bring a sizeable increase in everyone's electric bills. He said there may be a technical problem with the bill on page two, line 18 where it says "of each utility's annual retail sales revenue". There may be an interpretation problem there as to whether that applies to the supply portion of the bill. A public utility, under deregulation law, is the transmission and distribution company. It may turn out that Montana Power is also the default supplier that provides the supply portion, and that may need legal clarification. There also may be some concern about the splintering off of the low income part of Universal system benefits from the other public purposes, which have their own cases to be made.

Questions from Committee Members and Responses:

REP. DEE BROWN was hesitant to look at tables of data that are seven years old and asked if they could be updated. **Greg Groepper** said he tried to update them with the Department of Revenue (DOR) but was unable to do so. He said he would be happy to work with **REP. BROWN** and draft a request from this committee, as the DOR may listen to the committee more than they would to Energy Share.

REP. DEE BROWN suggested the sponsor request that. **Greg Groepper** said he was told by the DOR that it is difficult to count tax returns when there are numerous returns and only one household. Qualifications for these programs require looking only at household income, so revenue is trying to figure this out to get

a more realistic representation of family income in Montana. He said he would work with **REP. WANZENREID** to draft a letter and see if they can get that information from DOR.

REP. STORY asked if **REP. WANZENREID** took the current rate that funds several programs and divided it by six. **Greg Groepper** answered yes and added the gas rate is .42% and when they set the rate for electric USB in 1997 it was set at 2.4%, and 17% of that is required to be spent on low income, so 17% of 2.4% is .41%.

REP. STORY asked if the same thing was done in the large industrials, since the amendment indicated a language change in how the money could be used. **Greg Groepper** answered yes. He said the amendments attempted to get it down to .41% for large customers.

REP. STORY said not only did the numbers change, also the purpose the money now has to go to a low income program. **Greg Groepper** said they were attempting to take what is going on now and carry the rate forward and take the sunset off. They would be willing to work on the amendments to make sure they accomplish just that. Right now Energy Share gets a large portion of its funding from large customers; over \$200,000 last year.

REP. STORY asked what the current rate being applied to utilities sales was. **Bob Anderson** said it was approximately 2.4%. Utilities were required to do a minimum of 17% on low income. Montana Power is 21%, above the requirement.

REP. STORY asked if the statute read the 2.4% was to establish the base. **Bob Anderson** said it was 2.4% of 1995 revenue, and that established an annual total dollar requirement.

REP. STORY said it shouldn't matter what the price of power was, the rate would stay at 2.4%. **Bob Anderson** said no, it stays that total dollar amount, not the percentage.

REP. STORY thought that was what they got the other day in this discussion how the rate was 2.4% set to gather "x" number of dollars, but if usage changed or power prices changed, etc. the rate would be adjusted so you would collect the same amount of dollars. **Bob Anderson** answered yes.

REP. STORY said since the people involved in this have not had any significant changes in power prices or usage, the rate had never been adjusted to get the same number of dollars. **Bob Anderson** said there has been a minor adjustment, because there

have been changes from year to year in usage based on the weather and the state of the economy.

REP. STORY said if the power rates had not been capped because of a contract between Montana Power and PP&L, and everyone on that system was paying \$.04 or \$.05 per kilowatt hour, the rate would be less than 2.4% for that utility right now. **Bob Anderson** said if he understood the question, yes.

REP. SCHMIDT referred to the possible amendment that **Bob Anderson** had spoken of on line 18. Could you comment on that. **Greg Groepper** said this referred to the 2.4% of each utility's annual retail sales revenue and that **Bob Anderson** noted the intent needs to be perfectly clear if you pass this bill as to whether that applies to the supply portion of the bill. He said **Bob Anderson** suggested they work together on an amendment that would make it clear that annual retail sales includes the value of the supply going through the meter. Whether it is an independent supplier or a regulated utility that has the default supplier, we are looking at the same set of numbers we were looking at when this bill was passed, which is supply, distribution and transmission. It was a very critical issue and the intent needs to be crystal clear if this bill is passed.

REP. DEE BROWN added Columbia Falls Aluminum was in her district and as we know, is not in operation. She asked how was this going to affect the bottom line for those people in need of assistance. **Greg Groepper** said they were capped at \$500,000 USB and from the beginning they have been generous to low income. They have donated to Energy Share 17% of that \$500,000 which amounts to \$85,000 the first year and they donated \$85,000 to low income last year but they used \$10,000 of that as a match for a home grant for the Kalispell Human Resources Council to assist them with identifying and weatherizing homes of low income seniors. As he understands it, they reached that \$500,000 obligation in the first three months of operation when they were running all their pot lines. This year they are running half of their pot lines for a month, then they are shutting down. That says to me there is about one sixth of the \$500,000 available this year. If they start up again in 2002 they will be able to do this again. They are working on a way to bridge the gap until 2002.

REP. MOOD asked what Energy Share was. **Greg Groepper** explained it was a private, non profit agency that had existed since 1982 to help Montanans with an energy emergency. Their bylaws, until the Universal systems benefit came along, were to raise private money and they would help a Montana family once in their life.

If the family paid back the amount they were helped, they could be helped again. A local committee determined whose needs were greatest, so none of the decisions were made in Helena. Their administrative costs are about 8% and they have increased their ability to help low income from \$178,000 a year in 1996 to over \$750,000 this year. They are funded with private money and that includes checkoffs on bills from Montana Power, Montana Dakota Utilities, and Cooperative customers. This year they have \$150,000 from HB 10, and they also get Universal systems benefits money. Some donate it to Energy Share directly, and some programs are run at no cost to the utility or the coop, to get the money out to their low income customers.

REP. MOOD asked if the recipient of the 17% was referred to in this bill. **Greg Groepper** said Montana Power generated \$8.7 million in Universal systems benefits for renewable conservation and low income charges. Out of that, there is \$1.7 million that goes to low income. Montana Power gives a customer discount for low income people, they do weatherization programs, and Energy Share gets about \$300,000 from that \$1.7 million for Montana Power.

REP. MOOD asked about the balance not spent on the three things for low income people, about 5.5 million. **Greg Groepper** said about \$2.5 to \$3 million was the large customer credit. Large customers can spend that on conservation or low income things themselves and get credit for it. \$2.5 to \$3 million is categorized as large customer credits and the balance of that about \$2.5 million goes to conservation and \$1.5 million to renewable programs. Montana Power has a committee of citizens that give advice on how to do this, then they have to bring their plan before the Public Service Commission to get their approval on how it is distributed.

REP. MOOD asked about the conservation programs, were they making grants for studies. **Greg Groepper** said they used a business sense program assisting businesses to change inefficient lights and take applications for conservation projects. They were working with the Blackfeet on helping pay a portion of the wind farm project. There were no income restrictions for any of their conservation or renewable projects.

REP. MOOD asked if he was familiar with the amendments. **Greg Groepper** said he drafted them originally.

REP. MOOD said the amendments stated through June 20, 2003. He asked about the ten days from June 20 to June 30. **Greg Groepper** said it is a error and should say June 30.

REP. MOOD quoted a section of the Constitution that he thought **Betty Whiting** used in her testimony: "All persons are born free and have certain inalienable rights, they include the right to a clean and healthful environment and the right of pursuing life's basic necessities, enjoying defending their lives and liberties.....". He asked about the guarantee of the state to individuals, is that the right to pursue life's necessities.

Betty Whiting said she did not read that to the committee, but it sounds right. She said she was reading from their Position Paper that says something similar: "We believe that all people have a right to secure the basis necessities of life".

REP. MOOD clarified she was not reading from the Constitution. **Betty Whiting** said no, she was not.

REP. ROY BROWN asked if in the past for low income and winterization it was 17% of the 2.4% that was determined in 1995. Is that correct? **Greg Groepper** affirmed that was correct.

REP. BROWN thought they were going away from the 1995 base figure and changing it to .41% of whatever the retail sales are now. **Greg Groepper** referred to other Universal systems benefit issues, he said he is sure they will want to discuss conservation and renewable issues as well. The .41% is not intended to say don't do conservation and renewable. It is intended to say that is the same percent for low income that is in the bill now, so if you carry that forward we want to demonstrate we are not asking for any more money for low income, we just want to keep the rate the same. He said they are trying to stay away from conservation and renewable because that is not the business they are in.

{Tape 3; Side A}

REP. BROWN said if we do .41% of whatever the retail sales are starting July 1, 2003 it could be a huge amount more than what it is now. **Greg Groepper** said the best example he could give is that people say supply is 1/3 of a customer's bill. If you have 3/3 of the bill, 2/3 being transmission and distribution and 1/3 being supply and the supply triples, now you have 5/3. If 3/3 made the current rate, then you would be at 5/3 or 1.67% more for low income. Now we are spending \$.04 every \$10 of supply for low income USB, that is the minimum. He explained how the supply and price would be tripled due to percentages.

REP. STORY said on Amendment HB046701, the first word of the second amendment where we cleared up the date earlier is "through" but shouldn't it read "after". **Greg Groepper** said the current law, because it sunsets June 30, 2003 has the 2.4% rate.

He said he recalls this amendment was saying that the 2.4% rate would go through June 30, 2003 and then the .41% rate would start on July 1, 2003.

EXECUTIVE ACTION ON HB 364

Motion: REP. MOOD moved HB 364 DO PASS.

Substitute Motion: REP. CURTISS made a substitute motion HB 364 BE TABLED.

Discussion:

CHAIRMAN CURTISS said research on HB 364 to establish a constitutional defense fund is not complete enough to go forward in the time that we have. She said she sponsored HB 364 and it was not scheduled for today, but it needs to be tabled.

Vote: Motion to table carried unanimously.

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. AUBYN A. CURTISS, Chairman

LINDA KEIM, Secretary

AC/LK

EXHIBIT (feh32aad)